

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

SOURCEONE DENTAL, INC.,

Plaintiff,

v.

PATTERSON COMPANIES, INC. and
BENCO DENTAL SUPPLY COMPANY,

Defendants.

Civil Action No. 15-cv-05440-BMC-GRB

ION
**STIPULATION AND ~~PROPOSED~~ ORDER CONCERNING SOURCEONE'S MOTION
IN LIMINE #1 (DKT. 258)**

WHEREAS Plaintiff SourceOne Dental, Inc. ("SourceOne") filed its motion *in limine* #1 (Dkt. 258) asking the Court to "to exclude evidence or argument regarding Benco's financial health put on for the purpose of presenting a picture that a judgment against Benco may adversely affect its ongoing business operations," Dkt. 258 at 2;

WHEREAS Defendant Benco Dental Supply Company ("Benco") filed its opposition (Dkt. 275) stating that it "does not intend to offer evidence of its current financial condition for the purpose stated in Plaintiff's motion," Dkt. 275 at 2;

WHEREAS, the parties have met and conferred and agreed to a stipulation that renders SourceOne's motion *in limine* #1 moot;

NOW, THEREFORE, SOURCEONE AND BENCO, BY AND THROUGH THEIR RESPECTIVE COUNSEL, HEREBY STIPULATE AND AGREE AS FOLLOWS:

1. Benco agrees that it will not present evidence or argument regarding Benco's financial health for the purpose of presenting a picture that a judgment against Benco may adversely affect its ongoing business operations.

2. Benco reserves the right to present evidence and argument regarding Benco's financial position for the purpose of presenting the motivations for its conduct, place in the market, relative market power, business justifications for its actions, history of growth, competition with other market participants or any other permissible purpose pursuant to the Federal Rules of Evidence.

3. SourceOne reserves the right to object to any such evidence or argument for these purposes based on the context in which the evidence or argument is raised at trial.

4. Based on the stipulated agreement set out in the preceding paragraphs, SourceOne's motion *in limine* #1 ([Dkt. 258](#)) is being withdrawn as moot.

Date: August 23, 2019

/s/ Michael S. Mitchell

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Counsel for Defendant Benco Dental Supply Co.

IT IS SO ORDERED.

Dated: September 3, 2019

Hon. Brian M. Cogan
United States District Judge